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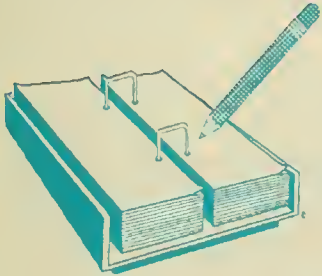
FOCUS

WORKERS' COMPENSATION NEWS

Volume II,
Issue #2

1996

MARK YOUR CALENDARS!



Why You Should Attend!

can help assure more of the employer's gross revenues end up on their bottom line.

The small employer often lacks the resources to hire a consultant or to employ a single person to effectively deal with safety, health and workers' compensation issues. The Governor's Conference is intended to assist by offering, at a minimal cost, specific topical information from a variety of professional through formal training sessions.

For employers who may be just beginning to develop a safety and health program, the Conference offers direct and inexpensive access to the information, individuals and resources they may need to develop an effective loss prevention/safety program. Employers who have safety and health programs, loss prevention plans and workers' compensation claims management policies and procedures in place will have the opportunity to share information and experiences and to learn ways to improve and maintain the effectiveness of what they have already accomplished. For all who attend, it will reaffirm what is already known and offer the opportunity to learn what is new relating to work-comp regulation; claims reporting and tracking systems; existing law and its effectiveness and impact; proposed legislation; information regarding many traditional safety and health issues; and what's new in state and federal compliance regulations and how to successfully comply with them.

Employers, and their representatives attending the Conference, will have the opportunity to meet and talk with a variety of peers, professionals, vendors and others in the fields of occupational safety and health, loss prevention and risk managements, workers' compensation insurance, workers' compensation law and regulation, injured worker rehabilitation and injured worker health care. The Conference provides a cordial informal setting that allows meeting with others who have similar problems and interest, thereby establishing contacts "networking" that can be an essential resource in establishing, improving and maintaining safety and health programming and workers' compensation loss prevention.

The accident that is prevented is the loss claim that doesn't occur. The claim that is managed is the cost that is controlled. The benefit is yours.

MONTANA GOVERNOR'S CONFERENCE ON WORKERS' COMPENSATION AND OCCUPATIONAL SAFETY - September 16-18

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GOVERNOR WILL ATTEND CONFERENCE

Additional Training Offered

The 1996 Montana Governor's Conference on Workers' Compensation and Occupational Safety will be held this year on September 16, 17 & 18 in Billings, Montana at the Holiday Inn.

Governor Marc Racicot will attend the conference luncheon on Tuesday, September 17, to present the safety awards to this year's winners. The keynote speaker will be **Michael Fortino** from The Center for Lifestyle Management in Pittsburgh, Pennsylvania. His topic, a personal effectiveness presentation, will be **"Time Flies When You're Not Having Fun Relating to Workers' Compensation"**. Mr. Fortino is a renowned speaker, author and media personality who has been featured on ABC, NBC, CBS, CNN and Good Morning America. His tour has taken him to over 17 countries and before audiences as large as 14,000.

We also have expanded the conference to include training courses that will coincide with the conference. The classes will be offered Monday morning from 8:00 am to 12:00 noon and all day Wednesday. The topics and presenters are:

-  **Using the Montana Work-Comp Electronic Data Interchange System**, presented by Lori Williams, Department of Labor & Industry, 406-444-0080.
-  **Fall Protection Hazard Awareness in Construction**, presented by Keith Johnson, Construction Safety Council of Illinois, 1-800-552-7744.
-  **"Keeping Up With Drug Testing", Drug Testing in a Regulated Environment**, presented by Bernard McCann, Northwest Cooperation Fund, 206-728-1282.
-  **Managing a Respiratory Protection Program**, presented by Bill Smith, Montana Safety Services Council of Billings and Jeff Ashworth of Strategic Supply, 406-248-4893 or 406-248-8098.
-  **Confined Space Entry Work Seminar**, presented by Bill Smith of Montana Safety Services Council and Fred Frandson of Oilind Safety, MSSC, 406-248-4893 or 307-347-4293.
-  **Safety Based Productivity HAZ-WOPER 8 Hour Refresher Training**, presented by Mark Hlebichuk of TriMark, Inc, Mel Lockridge and Doug Shoup, Rocky Mountain Associates, 406-721-0334.
-  **In-Site Ergonomics Training, "Keeping Your Company Injury Free"**, presented by Heidi Goldman of Professional Training Seminar Services, 406-449-2447.
-  **Safety and Loss Control Program Development**, presented by Mike Lynch of Yellowstone Resource Center Inc, 1-800-726-6755.

To enroll in any of these classes, please call the number listed. Some presenters are charging an additional fee for their classes.

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SPEAKERS AND TOPICS

Speakers and topics for the Safety portion of the conference:

Behavioral Approach to Accident Prevention, presented by Cheryl Pylypuw

Managing Occupational Risks in Montana, presented by Hal Luttschwager

Workplace Health Issues, presented by Theron Holland

Machine Guarding, presented by Joe Bean

Workplace Violence, presented by Sheriff Chuck O'Reilly of the Lewis and Clark County Sheriff's office

Fall Protection in Construction, presented by Ralph Litzsinger, and

Heat Stress, presented by Julie Norman

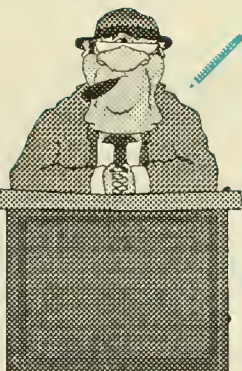
There will also be a panel discussion on **Safety Program Development**.

Speakers and topics for the Workers' Compensation portion of the conference:

Supreme Court Rules, presented by Karla Gray,

Confessions of an IME Dr. and Solving the Mysteries of the JAMA Guide, presented by Dr. Donald See,

Bad Faith, presented by Russ Plath and Mike Heringer



Claims Handling, presented by Janet Morris,

Supreme Court Cases, presented by Ann Clark

Where Did We Go Wrong, presented by Brad Luck,

Judge McCarter will also make a presentation and there will be a **rehabilitation panel**.

We've had an overwhelming response from businesses and are pleased to announce we've reached our limit of 35 exhibitor booths. There are still opportunities to sponsor a conference event. If you want to participate as a sponsor please call Lacey Culver at 406-444-1375. The sponsored events are the continental breakfasts, refreshment breaks and the receptions. As you probably know, the conference is funded entirely by registration fees and sponsorships. We sincerely appreciate all of our sponsors. This conference would not be the success it is without their generous donations.

If you have any questions concerning registration or would like to register please call Kara Christianson at 406-444-4637 as soon as possible as registration is limited. We anticipate a record number of participants at the conference and hope you will be able to attend. **See you there!!!**

To register call Kara Christianson at 406-444-4637

All Department of Labor and Industry compliance staff must have a picture identification badge. If it's not visible, ask to see it.



Safety Notes

Health Issues in the Workplace

Joe Liuzza

Almost everyone can relate a story of a health issue that became a problem in the workplace. Sometimes its air quality, or maybe ergonomic, or an employee who for some reason doesn't feel good and their doctor thinks its work-related. Health problems in the workplace can at times be straightforward and easily diagnosed while others can be as elusive as the best mystery plot. Someone suggests calling in an industrial hygienist. You say, who?

Industrial Hygienists: Who They Are and What They Do

Who Are They?

Industrial hygienists (IH's) are generally technical professionals. They may have degrees in chemistry, biology, physics, engineering, medicine, public health, or, recently, industrial hygiene. Many have advanced degrees.

The American Board of Industrial Hygiene is the sole sanctioning body for professional certification in the field. The "license" is called the CIH, Certified Industrial Hygienist. About 40% of all industrial hygienists are certified. Some are also professional engineers (PE).

Sixty percent of IH's engage in comprehensive practice, but some specialize in environmental issues, IH chemistry, management, ergonomics, or biological hazards and toxicology issues. Some work in epidemiology or engineering control measures. Most are practical field engineers, but there are those who are research oriented.

Sometimes the profession may be referred to as an "indoor industrial environment engineer," "occupational health consultant," "environmental engineer," or simply "industrial hygienist."

What Do They Do?

Industrial hygiene complements the occupational safety and safety engineering profession. An Industrial Hygienist is defined as a person who, by virtue of training and experience, recognizes, evaluates (quantifies or measures), and prescribes controls for chemical, ergonomic, physical, and biological hazards in the workplace. The purpose of an Industrial Hygienist is anticipate and prevent occupational illness.

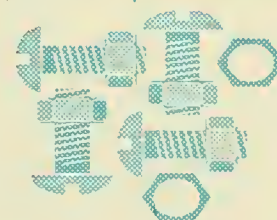
The IH is concerned with a wide variety of issues in the workplace:

- a. chemical hazards to workers, by inhalation or skin contact. This is the predominant activity in comprehensive practice because the vast majority of exposures are chemical.
- b. physical hazards - noise exposure, heat stress, extremes of temperature and pressure, radiation, both ionizing and nonionizing and lasers.
- c. ergonomic hazards - lifting, tool design, industrial workstation design, video display station design.
- d. biological hazards - infectious (communicable) diseases, airborne mold or other microorganisms and bloodborne pathogens.

How Can a Department of Labor and Industry Industrial Hygienist Help You?

Some of the nuts and bolts things we do are:

- a. suggest less hazardous chemicals for a process;
- b. measure airborne concentrations of contaminants to which employees are exposed and recommend control measures;
- c. develop effective respiratory protection programs and specify correct respirators for the contaminant and concentration;
- d. evaluate or design exhaust ventilation systems;
- e. prescribe appropriate chemical protective gloves and clothing for chemical hazards
- f. critique work processes and practices to minimize exposures (develop process safety management programs);
- g. train employees and employers on how to: recognize chemical hazards; protect themselves; and, respond to exposures (develop hazard communication programs);
- h. assist employers with the technical aspects of high hazard activities in their work places including;
 - i) hazardous non-routine or onetime activities;
 - ii) confined space entries;
 - iii) lead, asbestos, silica exposures; and,
 - iv) assist with more complex lockout/tagout issues involving unusual energy sources;
- i. evaluate spray booth hazards: ventilation and respiratory protection; fire protection;
- j. measure noise exposures and help the employer design effective hearing conservation programs;.
- k. help employers develop effective infection control programs to protect employees against bloodborne pathogens;
- l. inspect laboratories and develop chemical hygiene plans for labs;
- m. conduct indoor air quality investigations: sick building, etc.; and,
- n. perform VDT station evaluations: ergonomic design of office occupancies.



How Can We Help in the Public Sector?

We can perform all of the above tasks for public employers. We have worked on bridge construction sites, in weed control districts, city water and waste water treatment plants, schools, high school and university laboratories, highway construction, road striping (painting), state agencies, county shops, and public sector office buildings. We can perform dust and gas contaminant evaluations and we help with certain special projects such as heat stress. We also perform occupational disease investigations.

Because adverse health effects can be delayed, can have long latency periods, or can take time to develop, and because much of the work is proactive, the IH's effectiveness is not readily measurable. In proactive terms, one can look at conditions identified, like toxic air contaminant concentrations, and predict what would have happened to the exposed workers had the IH not intervened. So identifying the severity of adverse conditions is one measure. In the case of reactive investigations - an employee is sick and we attempt to see if the illness is occupationally related - sometimes the payoff is finding a cause-effect relationship between conditions or practices at work and an existing illness so we can protect other workers similarly exposed.

ASSISTANCE FOR BUSINESS CLINICS

Do you need to know more about employment and tax laws? Information on how and when to file state and federal forms? The following agencies will provide you with information at the Assistance for Business Clinics:

- ☉ Internal Revenue Service
- ☉ Montana Department of Revenue
- ☉ Department of Labor and Industry
 - ☆ Employment Relations Division
 - Wage & Hour
 - Safety Bureau
 - Workers' Compensation
 - Unemployment Insurance
 - Contractor's Registration

Check the schedule below to see when a

training clinic is scheduled for your area. Registration fees are set by the local sponsor to cover costs, including lunch. For more information or to register, please contact your local sponsor. Enrollment may be limited. Please respond as soon as possible.

Notes: Special arrangements are available for persons with disabilities. Inquiries regarding arrangements should be made to the sponsoring local organization at least 5 working days prior to the workshop.

Agenda:

Registration	7:15-7:45
Opening Remarks	7:45-7:55
Presentations	8:00-12:00
	1:00-5:00

Clinic Schedule

City	Date	Location	Sponsor	Phone	Fee
Billings	August 14 or 15 <i>same program each day</i>	MSU-Eastern	MSU-Eastern	657-2203	\$25.00
Lewistown	September 4	Yogo Park Inn	Chamber of Commerce	538-5436	\$20
Bozeman	September 11	MSU-Strand Union	Chamber of Commerce	586-5421	\$20/members \$25/non
Butte	September 12	War Bonnet Inn	Chamber of Commerce	494-5595	\$20
Helena	September 18	Jorgensen's Holiday Motel	Chamber of Commerce	442-4120	\$25/members \$30/non

Department Issues New Wage Loss (Indemnity) Compensation Rates

For those of you new to workers' compensation, there are two benefits injured workers may receive - medical benefits, which pay for medical services the injured worker receives and indemnity benefits which compensate a worker for the time they are off work due to their injury.

The maximum weekly workers' compensation wage loss (indemnity) rate for injuries occurring on or after July 1, 1996 through June 30, 1997 is \$384.00 for temporary total compensation, permanent total compensation, temporary partial compensation, rehabilitation benefits and death benefits.

Also, the Department adopts the rate of 6.57% as the interest rate to be used for discounts and amortization calculations on claims with dates of injury occurring after 7-1-87.

The permanent total disability benefit cost of living increase is 1% for any worker who has received 104 weeks of permanent total benefits before July 1, 1996 on a post July 1, 1987 claim.

If you have question relating to wage loss rates, call Carol Gleed at (406) 444-6530. For questions on medical benefits, call Jeanne Johns at (406) 444-6526.

CONTRACTOR REGISTRATION REMAINS ON HOLD

Paul Tash

District Judge Frank Davis of Dillon recently extended a temporary restraining order against the contractor registration law, which requires construction contractors to register with the Department of Labor and Industry. The restraining order prohibits the Department from enforcing the law, enacted by the 1995 Legislature at the behest of the construction industry.

A more definite ruling on whether the law can continue isn't expected until early August at the soonest. In the meantime, the Department is allowed to accept and process registration applications and can provide information to help contractors fill out the application form.

Judge Davis originally issued the restraining order June 28, three days before the law was to take effect. The restraining order was to last until July 16, when oral arguments would be heard to decide whether to issue a preliminary injunction. At the conclusion of the hearing, however, Judge Davis extended the restraining order and requested additional briefs from both sides of the disputed law. The last of those briefs were due Aug. 3, and a ruling on the injunction is expected sometime this month.

Rep. Brad Molnar, R-Laurel, filed suit in Beaverhead County District Court in February challenging the law as unconstitutional. His lawsuit claims, among other things, that the contractor registration violates rights to free speech and access to courts because unregistered contractors can't advertise their services or go to court to collect debts. Defending the law in court is the state attorney general's office.

The 1995 Legislature passed the contractor registration law to ensure building contractors are complying with all employment laws, specifically workers' compensation coverage

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ADMINISTRATIVE ASSESSMENT

Department Receives Comments on Proposed Rules

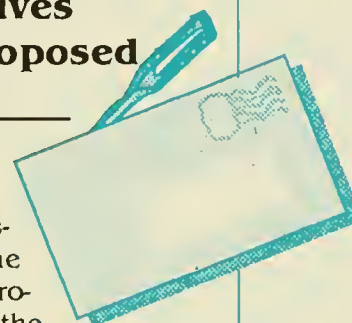
Kathy Burton

The Department received many good suggestions on how to improve the language contained in five proposed new rules related to the workers' compensation administrative assessment.

A public hearing was held on July 11, 1996 to consider the proposed adoption of the new rules. The rules presented attempted to address the calculation of the administrative assessment from 1991 to the present in one set of rules. Accounting and legal staff of the department worked together to draft the proposed rules.

Testimony at the hearing, and comments received after the hearing, indicate that insurers have concerns about the rules and there is confusion about what the rules say. One comment received in testimony at the time, and again in the letters we've received, indicated that the rules need to be more clear. It was expressed that in some respects the terms are too general and the process we are attempting to illustrate with the rules is too vague.

We appreciate the comments made about the proposed rules. We will be attempting to clarify those areas of the rules that were not easily understood. In addition, we will take into consideration all comments and concerns expressed and respond directly to those parties who contacted us. If you would like additional information related to the proposed rules or the administrative assessment on insurers, please contact the Employment Relations Division at 444-1576.



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and unemployment insurance. Lawmakers wanted to eliminate the advantage non-compliant contractors have in bidding jobs against those who are paying the required workers' compensation and unemployment insurance costs.

The law also would provide liability protection for contractors hiring other contractors. Generals who know the subcontractor they hire is registered won't be liable for injuries suffered by that subcontractor or his employees.

To register, construction contractors need to:



Complete a contractor registration form;



Obtain a security deposit - either in the form of a surety bond, certificate of deposit, letter of credit or cash - with minimum amounts of \$6,000 for a general contractor and \$4,000 for a specialty contractor (the cost for a minimum bond is about \$75) ;



Provide proof of workers' compensation coverage and unemployment insurance; and,

Pay an \$80 registration fee.

As of the 24th of July, 5,020 contractor registration applications had been approved, and another 2,212 were in the registration process.

**Department of Labor and Industry
Employment Relations Division
P.O. Box 8011
Helena, MT 59624-8011**

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